

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILLIAM A. SMITH and JOSE LEMUS,

Plaintiffs,

No. C 07-02126 JSW

v.

PACIFIC GAS AND ELECTRIC COMPANY,

Defendant.

**COURT'S INTENDED VOIR DIRE
FOR PANEL**

STATEMENT OF THE CASE

In May 2005, after PG&E's Information Technology and Infrastructure Services Department ("ITIS") was reorganized, PG&E Manager Dave McKinnon posted a new Team Lead position in the reorganized department, to be filled internally. Three PG&E employees interviewed for the position, including the Plaintiff, Jose Lemus.

McKinnon selected Diana Abinante to fill the position. Plaintiff alleges that McKinnon selected Abinante because of Lemus' national origin, Mexican. PG&E denies plaintiff's allegation and claims that McKinnon selected Abinante because her interview was most impressive and because she was already doing some of the duties of the job. Plaintiff claims that his national origin was either the sole factor or a motivating factor in McKinnon's hiring decision, and PG&E claims that McKinnon would have made the same decision regardless of Plaintiff's national origin.

QUESTIONS FOR THE PANEL

1. Has any member of the panel heard or read anything about the case?
2. As I indicated, my name is Jeffrey S. White. Do any of you know me?
3. My courtroom deputy is Jennifer Ottolini and my Law Clerks are Daisy Salzman, Melissa Goldberg, and Kristin Ring. Do any of you know any of these people?
4. Plaintiff Jose Lemus will be represented at trial by Dan Siegel of the law offices of Siegel & Yee. Defendant PG&E will be represented at trial by Gary T. Lafayette of the law firm of Lafayette & Kumagai LLP. The parties may also call the following witnesses:

- Craig Porter
- David McKinnon
- Pat Lawicki
- Kristi Patterson
- Gloria Herrera
- Bahman Ahmadi
- Shannon Walden
- Diane Abinante
- William Smith
- Jon Roder
- Veronica Lemus
- Marty Hunt
- John Greer
- Roger Gray
- Gregory Thornbury
- Russ Shaw
- Janice Frazier-Hampton
- Janice Krueger
- Bruce Grosse

- 1 b) As a supervisor, have any of your employment decisions been appealed to
- 2 another level of management?
- 3 c) What was your reaction to the fact that the employee appealed your decision?
- 4 d) Was your decision upheld or overturned?
- 5 12. Do you have any belief or feeling for or against public entities, such as PG&E, that
- 6 might prevent you from being a completely fair and impartial juror?
- 7 13. Have you, or any member of your immediate family, ever filed a grievance or an appeal
- 8 of an adverse employment action?
- 9 14. Has anyone ever sued you, or any member of your immediate family, or presented a
- 10 claim against you or a member of your immediate family, in connection with matters
- 11 similar to this case?
- 12 a) What was the nature of the claim?
- 13 b) Did the matter terminate satisfactorily as far as you are concerned?
- 14 c) Is there anything about your experience that will interfere with your ability to be
- 15 fair and impartial?
- 16 15. Have you, or any member of your immediate family, had any special training in the law?
- 17 If so, please describe.
- 18 16. Have you, or any member of your immediate family, had experience with employee
- 19 management, including company reorganizations?
- 20 17. Have you ever felt that you were discriminated against based on race or national origin
- 21 by a business entity or company? If so, describe the incident.
- 22 18. Have you, or any member of your immediate family, ever complained to a business
- 23 establishment or company of race or national origin discrimination? If so, how was the
- 24 matter resolved?
- 25 19. Have you, or any member of your immediate family, ever sued an employer?
- 26 a) What was the claim?
- 27 b) What was the result?
- 28

- 1 20. Have you, or any member of your immediate family, ever filed a charge or complaint of
2 race or national origin discrimination against any company or person?
- 3 a) What was the claim?
- 4 b) How was it resolved?
- 5 21. Have you been affected by an employer's reorganization plan, including downsizing or a
6 reduction in force plan? If so, please describe the situation, including the details of the
7 employment position, employer and dates?
- 8 22. Do you believe you have ever been unfairly denied an employment position? If so,
9 please describe the situation?
- 10 23. You may be called upon in this case to award damages. Do you have any religious or
11 other beliefs that would prevent you from awarding damages if liability for them is
12 established?
- 13 24. Do you believe that money judgments awarded in lawsuits are generally excessive? Not
14 enough?
- 15 25. Would you have any difficulty in returning a money verdict in favor of the plaintiff if
16 he showed that he was treated illegally? If so, why?
- 17 26. Do you believe that when a party files a lawsuit for discrimination it means that that
18 party has been discriminated against?
- 19 27. Are any of you members of any board or agencies that concern civil rights? If so, what
20 board and what does it do?
- 21 28. Do you know anyone on this jury panel?
- 22 29. Do you think it is possible that a person can suffer severe and lasting emotional distress
23 as a result of being treated wrongfully at work?
- 24 30. Have you had any training in psychology or psychiatry?
- 25 31. Have you ever worked for a psychologist or psychiatrist?
- 26 32. Have you ever been denied a promotion? If so, did you protest it?
- 27 33. Do you, or have you ever, owned your own business? If so, what type of business?
- 28

1 34. Would you tend to believe a supervisor or manager over a subordinate employee simply
2 because of his or her position?

3 35. Do you believe that national origin discrimination is a common occurrence?

4 36. Is there anything else that you would like to bring to the Court's attention (e.g., health
5 problems, hearing problems, difficulty understanding English, personal bias, financial
6 problems, etc.) that might affect your ability to be an effective, fair and impartial juror?

7 37. Will you be able to be a fair an impartial juror to both sides involved in this case?

8 **IT IS SO ORDERED.**

9
10 Dated: May 7, 2008



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE